

IN THE DISTRICT COURT OF THE UNITED STATES FOR THE  
MIDDLE DISTRICT OF ALABAMA, NORTHERN DIVISION

BANK OF HOPE,	)	
	)	
Plaintiff,	)	
	)	
v.	)	CIVIL ACTION NO.
	)	2:20cv155-MHT
	)	(WO)
DAYK ENTERPRISES, INC.,	)	
d/b/a Country Inn & Suites	)	
Montgomery East, et al.,	)	
	)	
Defendants.	)	

OPINION AND ORDER

This case is before the court on the recommendation of the United States Magistrate Judge that the plaintiff's motion for summary judgment and motion for a hearing on the motion for summary judgment be denied without prejudice, and that the plaintiff be granted leave to file a motion to amend the complaint to correct insufficient jurisdictional allegations as to the two individual defendants. The plaintiff did not file an objection to the recommendation but did file a motion to dismiss the two individual defendants. However, to make clear that the complaint's allegations

are sufficient to establish subject-matter jurisdiction, it would be preferable for plaintiff to instead file an amended complaint omitting the two defendants. Therefore, after an independent and de novo review of the record, the court concludes that the recommendation should be adopted. However, instead of filing an amended complaint that corrects the jurisdictional allegations regarding the individual defendants, the plaintiff should file an amended complaint that omits the individual defendants as parties.

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Accordingly, it is ORDERED that:

(1) The recommendation of the United States Magistrate Judge (Doc. 33) is adopted.

(2) The motion for summary judgment (Doc. 21) and motion for a hearing on the motion for summary judgment (Doc. 23) are denied without prejudice.

(3) Plaintiff is granted leave to file, by September 17, 2021, an amended complaint omitting the individual defendants.

(4) The motion to dismiss (Doc. 34) is denied as moot in anticipation of the filing of the amended complaint.

This case is referred back to the magistrate judge for further proceedings.

DONE, this the 13th day of September, 2021.

/s/ Myron H. Thompson  
UNITED STATES DISTRICT JUDGE